THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.2149 of 2006

Dated: 03-02-2006

The Theosophical Society (Regd.), Kakinada.

..... PETITIONER

AND

Kakinada Municipal Corporation, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO.2149 of 2006

ORDER:

The petitioner-Society is the owner of Besant Complex (shopping complex) bearing Door Nos.22-1-41, 22-1-41/1 and 22-1-41/2 situated at P.R. Government College Road, Kakinada, East Godavari District. It is alleged that recently the officials of the Kakinada Municipal Corporation (KMC) came to the petitioner's premises and marked certain portion of the premises for demolition for widening the Raja Rammohan Roy Road. The petitioner is not willing to give consent to handover possession. The petitioner alleges that the action of the respondents in proposing to demolish its premises without following due process is illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Standing Counsel for KMC. After getting instructions in the matter, the learned standing counsel for KMC submits that if the petitioner is not willing to give its consent, necessary action would be taken in accordance with Section 147 of the Hyderabad Municipal Corporation Act, 1955 ('the HMC Act' for brevity) for acquiring the land. The learned counsel does not dispute that unless the petitioner is deprived of its property in accordance with due process of law, its right to enjoy the property cannot be denied.

This Court in **P.Lakshmana Rao v. Executive Officer** and **M.Madhavi Latha v. Rajendranagar Municipality** and **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** has held that whenever a private property is required for laying road, widening existing road or for any public purpose, public authorities - be it local body, Corporation or Government - cannot highhandedly dispossess the petitioner or owners of the land. They have to necessarily follow the procedure either by negotiating with the owners or acquiring the land as per Section 147 of the HMC Act in case the owners are not inclined to give willingness to part with the land voluntarily. The respondent authorities cannot high-handedly take coercive action against petitioner-Society.

Accordingly, the writ petition is disposed of observing that unless and until requisite proceedings under Section 147 of the Act are initiated, the petitioner's right to enjoy its property cannot be denied nor KMC officials can demolish premises of the petitioner-Society, without notice. No costs.

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(**V.V.S.RAO, J**)

03-02-2006

ghn